

ORIGINAL *none to it*IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TYRONE P. JAMES

Plaintiff,

vs.

YORK COUNTY POLICE DEPARTMENT.

JAMES A. MORGAN, RICHARD PEDDICOORD,

RAYMOND E. CRAWL, GENE FELS,

DET. KISSLER, CO. BAYLARK,

RANDY SIPES, BRIAN WESTMORELAND,

and DETECTIVE GLOWCHESKI

Defendants.

CIVIL ACTION NO. 1:01-CV-1015

(Judge Kane)

JURY TRIAL DEMANDED

FILED
HARRISBURG, PA

MAR 17 2004

MOTION FOR REARGUMENT OF THE HONORABLE JUDGE KANEMARY E. D'ANDREA, CLERK
Per 9/8ORDER DATED FEBRUARY 10, 2004; DENYING PLAINTIFF'SMOTION FOR RECONSIDERATION AND PRESENT THE FOLLOWING EXIST IN VIOLATIONOF HIS DUE PROCESS RIGHT TO CONTACT COUNSEL AFTER PRELIMINARY ARRAIGNMENT

AND NOW COMES, plaintiff's, Tyrone P. James, moves this Honorable Court for reconsideration and reargument, pursuant to Fed.Rule.Civ.Proc., Rule 59(e), and Local Rule 7.10 District Court, of the Order, dated February 10, 2004; denying plaintiff Motion For Reconsideration, of the Order granting Summary Judgment in favor of C/O Baylark; and for the foregoing reasons, vacate the Judgment of this Court, granting summary judgment. Plaintiff's hereby avers and present the following:

1. On February 10, 2004, The Honorable Judge Kane, issued an order denying plaintiff's motion for reconsideration, of this Court Order granting summary judgment, in favor of C/O Baylark, on November 12, 2003.

2. On or around, March 1, 2004, a Notice of Appeal, was filed with this Court on said Order.

3. Upon review of the court records and documents, to date, plaintiff's came around a copy of the York County Prison-Inmate personal property sheet, dated, January 10, 2001, signed by officer #145,; in which states, "I understand that I CAN MAKE A PHONE CALL FOLLOWING THE ADMISSION PROCEDURE IF MY BEHAVIOR

IS WITHIN NORMAL STANDARDS;" plaintiff's behavior was within the normal standards, when he requested the use of the phone to contact, his Attorney, Bondman and immediate family members. See attach preliminary hearing, dated March 28th, 2001, Defendant Morgan sworn testimony under oaths, instructing Prison Guards, "not to give plaintiff's any phone call pending investigation." This is a blatant violation of this plaintiff's constitutional right, under the due process right, Equal Protection of the laws, and Procedural due process. See Pa.R.Crim.P., Rule 540(f); and U.S. Const. 14 Amend. and PA Const. ^{see} EXHIBIT A]

4. Summary Judgment is appropriate only when it is demonstrated that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Celotex Corp. v. Catrett, 447 U.S. 317, 322-32, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986)

In deciding a motion for summary judgment, all facts must be drawn in favor of the non-moving party. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587, 106 S.Ct. 1343, 39 L.Ed.2d 533 (1985); Oritani Savings & Loan Association v. Fidelity & Deposit Company of Maryland, 989 F.2d 636, 638 (3rd Cir. 1993); Froy Chemical Corp. v. Teamsters Union Local No. 408, 37 F.3d 123, 125-126 (3rd Cir. 1994); Arnold Pontiac-GMC, Inc. v. General Motors Corp., 700 F.Supp. 238, 340 (W.D.Pa. 1988); Mosley v. Valetsko, 275 F.Supp.2d 608 (E.D.Pa. 2003). An issue of material fact is said to be genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986).

WHEREFORE, plaintiff's pray, that upon consideration of the foregoing reasons, inspection of the Exhibits presented by Plaintiff's, show that a material issue exist, in violation of his constitutional right; this Court should reverse the Order, dated November 12, 2003; granting summary judgment in favor of C/O Baylark.

Respectfully Submitted,

Dated March 7, 2004.

Tyrone James

Tyrone P. James
EX9451

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TYRONE P. JAMES

Plaintiff.

vs.

YORK COUNTY POLICE DEPARTMENT.

JAMES E. MORGAN, RICHARD PEDDICORD,

RAYMOND E. CRANIL, GENE FEELS,

DET. KISSLER, CO. BAYLARK,

RANDY SIPE, BRIAN WESTMORELAND,

and DETECTIVE SLOWCZESKI

Defendants.

CIVIL ACTION NO. 1:01-CV-1015

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CERTIFICATE OF SERVICE

I, Tyrone P. James, Plaintiff's hereby certified that, I am this day serving a true and correct copy to assigned counsels, "Motion For Reargument Of The Honorable Judge Kane Order Dated February 10, 2004; Denying Plaintiff's Motion For Reconsideration And Present The Following Exhibit In Violation Of His Due Process Right To Contact Counsel After Preliminary Arraignment," in the manner set forth below to the following:

By First Class U.S. Mail:

Jason C. Giurintano, DAG
Office Of Attorney General
Commonwealth Of Pennsylvania
15th Fl., Strawberry Square
Harrisburg, PA 17120

Donald L. Reihart
Law Office Of Donald L. Reihart
3015 Eastern Blvd., Suite 204
York, PA 17402.

Date: March 7, 2004.



Tyrone P. James
EX 9451
P.O. Box A
Bellefonte, PA 16823-0820

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TYRONE P. JAMES

Plaintiff,

vs.

YORK COUNTY POLICE DEPARTMENT,

JAMES H. MORGAN, RICHARD PEDDICORD,

RAYMOND E. CHAUL, GENE FOLLS,

DET. KISGLER, CO. BAYLARK,

RANDY SINES, BRIAN WESTMORELAND,

and DETECTIVE GLOWCZESKI

Defendants.

CIVIL ACTION NO.1:01-CV-1015

(Judge Kane)

JURY TRIAL DEMANDED

VERIFICATION

I, Tyrone P. James, verify, under penalty of perjury, that the foregoing "Motion For Reargument Of The Honorable Judge Kane Order, Dated February 10, 2004; Denying Plaintiff's Motion For Reconsideration And Present The Following Exhibit In Violation Of His Due Process Right To Contact Counsel After Preliminary Arraignment," is true and correct to the best of my knowledge and belief, pursuant to 28 U.S.C. § 1746.

Respectfully Submitted,

Date: March 7, 2004.



Tyrone P. James

EX 9451

P.O. Box A

Bellefonte, PA 16823-0820.

Name: *TYRONE JAMES*
Number: *EX9451*
Box: *A*
Belleville, Pa. 16823

INMATE
PA DEPT OF
CORRECTIONS
FILED
HARRISBURG, PA

MAR 17 2004

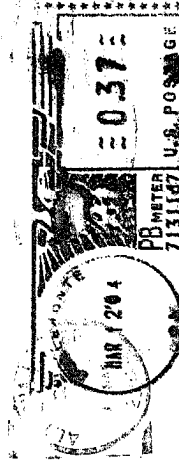
MARY E. DIANDREA, CLERK

Per: *gfg*

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